

**FLATHEAD COUNTY PLANNING BOARD  
WHITEFISH ZONING WORKSHOP MINUTES  
OCTOBER 30, 2014**

**CALL TO  
ORDER  
6:01 pm**

A workshop of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the Flathead County Fairgrounds, South Expo Building in Kalispell, Montana. Board members present were Noah Bodman, Jim Heim, Greg Stevens, Jeff Larsen, Tim Calaway and Marie Hickey-AuClaire. Ron Schlegel and Gene Shellerud had excused absences. BJ Grieve, Erik Mack and Rachel Ezell represented the Flathead County Planning & Zoning Office.

There were approximately 50 people in the audience.

Hickey-AuClaire explained the agenda and said given the number of people in the audience, there would be a three minute time limit for public comment.

**PRESENTATION  
BY COUNTY  
PLANNING  
STAFF  
6:02 pm**

Grieve briefly explained the role of the Planning Office and planning term definitions. He gave an in depth background of planning and zoning in the area around Whitefish, addressed the transition of rural Whitefish jurisdiction back to Flathead County, the purpose of this public workshop, what the process would be from this point on and how to stay informed and involved.

**PUBLIC  
COMMENT  
6:32 pm**

Jen Oliver, 918 Edgewood Place, wanted to remind everyone the Growth Policy and Master Plan were put together with a lot of public input. She felt it wasn't Whitefish shoving anything down anyone's throat. She hoped the things the people of Whitefish cared about were still protected. She wondered if the people running for county commissioner were in the audience at this workshop since they might be involved in deciding what happened with the area. She asked the reasons for the critical areas ordinance be kept in mind.

Sharon Demeester, 415 Chestnut Drive, supported the letter given to the Flathead County Planning Board by the city of Whitefish and suggested the board adopts its recommendations. She read parts from the letter concerning adopting similar zoning to what was in existence. She asked the board adopt option 3c.

Ed Luke, 1805 Karrow Ave, wondered why the zoning was different on either side of his road. He gave examples of the

differences. He asked if there was something they could do to make zoning more uniform. He did not know the capacity of the aquifer in the area for the wells. If the minimum acreage went down to 2.5 acres, a community well should be considered.

Maureen Cordoza, 150 Lost Coon Trail, wondered as things changed, how will the agricultural uses change. She agreed with Ed Luke with the erratic zoning. Infrastructure was a big worry for her. She wanted to make sure things were done right.

Reggie McMurdo, 2475 Hwy 93 W, concern was similar to Luke's concern. The majority of the property in his area was non-compliant with the zoning. It was smaller than the zoning allowed. He felt it would be more fair if everyone in the zone was treated the same. He urged the board to allow further input into changing the existing zones as established by Whitefish regardless of which method was chosen to move forward with.

Don Kaltschmidt, 230 JP Road, owned pieces of property in the former donut and was also a part of the Growth Policy committee so if the board had any questions on that document, he was available. He was currently zoned AG-20 and he preferred keeping it that way. He realized as Whitefish grew, the need to go down to different zoning might be necessary. He did not think now was the time for that change. His experience in running a store on the other side of the street from his AG-20 zoned property was the street divided commercial from residential. This did not work. There was a constant problem between a residential neighborhood and a commercial area. He would like to see some kind of zoning buffer between hard commercial and residential zoning. He urged the board to work with the city of Whitefish on the highway 93 south corridor because a lot of it would end up going into the city but for now the county had jurisdiction.

Ben Cavin, 2130 Houston Drive, commended Grieve on his presentation. He said members of the former donut area were not part of the city and were actively resisting annexation. He said the bottom of the lake was originally annexed so the city could control around the lake. He asked if there was any point to the city having annexed the lake bottom since the lawsuit was over. He was originally zoned a Whitefish zone and now was interim zoned differently and asked that the zoning be fine-tuned a little. He was opposed to the text amendment concerning the allowing of mother-in-law units around Whitefish Lake due to

concerns of septic contaminating the water.

Robert Graham, 5805 Hwy 93 South, said there didn't seem to be any transitional zoning in the Hwy 93 South, Highway 40 area. He felt a transitional zoning area would be important. He gave his history of having a conditional use permit (CUP) in his area. He business was not full blown commercial, but some sort of transitional zoning would be beneficial.

Marilyn Nelson, 565 Blanchard Lake Road, wanted to speak in support of the letter Whitefish wrote to the board. She also wanted to ask what would happen to the neighborhood plans with the transition. She asked the board to consider those documents if they were in their purview. She thought it was important to look at what the people in the areas wanted more than individual needs because solutions were needed that worked best for the community as a whole.

Yvonne Slaybaugh, 2155 Houston Drive and Fox Trot Lane, part of her concern was the need to have clearer zoning and applications on the area from Highway 40 to Midway Mini Mart and clean up the zoning in the area. There were a lot of good things about the critical ordinances and being polite to nature and neighbors. Trying to make uniform variances was very important as well.

Tom Nervacil, 179 Little Creek Lane, commented he could print the option chart off of the Planning website but could not read it. He suggested making the chart better so people could read it. There seemed to be this worry about what was going to happen in the area in the future.

Denny Gignoux, 659 9<sup>th</sup> Street W, did not want to be annexed by the city of Whitefish and he was concerned the property around Karrow Ave was going to be annexed in the future. He would like to maintain the rural aspect of that side of town. He wondered if he could have a garage apartment. He knew those were possible in the city of Whitefish, but was unsure if he could have one in the county. He was concerned about a lot of development on Highway 93 South as well. He like the rural feel of driving south on 93 and wanted to preserve it.

**PLANNING  
BOARD  
DISCUSSION**

Grieve explained a map of the Houston Drive area and pointed out which parts were city limits and which were not. He could not address why zoning was different on one side of the street

**7:01 pm**

from the other because since he had been in the Planning Office, it had been under Whitefish jurisdiction. In a broad sense, in an ideal world when zoning was put into place, a plan will have a street as boundary between a higher density and lower density development. He gave other possible examples as to why the zoning may be different such as future sewer plans and a handful of privately initiated zone changes. Sometimes when opportunities such as this transition arise it could be possible to clean things up zoning wise. Was there any reason for the city to have continued annexation of the Whitefish Lake bottom? Once a city annexed property there was a process to de-annex which was outlined in state law but it would be up to the city to do that. Whitefish had annexed the lake from low water down. He explained the other levels of the lake and who controlled what. He had read the annexation document and had it available to the public from the office. A copy was available from Whitefish as well. The document discussed the annexation and the reasons why. It was most appropriate to get the document from the city since it was their annexation. Concerning the change from Whitefish zoning to interim county zoning, the county needed to move quickly to get zoning in place. The former donut area was functionally unregulated for a little while. What was done instead of looking at what was appropriate, what was closest to the Whitefish zone in county zoning designations was put into place. There were two areas where the county did not have compatible zoning designations to the Whitefish zones. He explained in depth how the interim zoning had been placed and two areas which did not have comparable county zoning for the Whitefish zoning formerly in place and what the county had done. Interim zoning did not mean permanent zoning. Regarding accessory dwelling units, that was a text amendment which was in the board's work plan prior to July 15, 2014 when jurisdiction of the donut was handed to the county. He went on to explain accessory dwelling units and what the board had done to this date concerning them. The information was available on the Planning and Zoning website. The public hearing was scheduled for the commissioners on November 17, 2014. The copy of the text amendment was on the website and if there were questions, Erik Mack in the Planning and Zoning Office would be happy to answer questions. What happens to neighborhood plans established 20 years ago? The neighborhood plans which were in the Growth Policy were the Knicknack Neighborhood Plan and Riverside at Whitefish. If they were neighborhood plans adopted more recently by Whitefish, he was not aware of them. If they were in the county adopted prior to the inter-local

agreement, he wanted to know more about them. He asked where Marilyn Nelson was sitting.

Nelson said she had no idea where the resolutions and information were.

Grieve asked the name of the plan she was thinking of.

Nelson said the Blanchard Lake Plan.

Grieve and Nelson clarified the name of the plan which was Blanchard Lake Neighborhood Plan.

Grieve said there was a Blanchard Lake zoning district and showed on a map where that district was and when it was adopted.

Nelson and Grieve discussed how the zoning district had come to be and where it was located and if it was citizen initiated.

Grieve said the office could look into the district to gather more information. He went on to explain the 1996 plan and how that might factor into the district.

Nelson said the question was what happened to the neighborhood plans now?

Grieve said the only plans as of now, were the two he mentioned earlier. He gave the history of the area to his knowledge and when some areas were adopted. Concerning the question of if Gignoux could have an apartment, he could call the office and staff would look up his property and give him an answer.

Calaway asked how Whitefish annexed property and asked Grieve to clarify.

Grieve said he did not know the process Whitefish followed. Property was annexed away from the county. The county did not annex property. He could only speak to what happened in the county. He knew there was a provision for de-annexing. There was a person in attendance from the Whitefish Planning Office who may be able to clarify the process. He said the city of Whitefish could be contacted for clarification on their process.

Calaway said there were questions people have asked him about

annexing and he did not have the answers.

Grieve said the county did not do eminent domain. He did not know if they had in the past, but it was not on anybody's radar now. It was an unpopular endeavor. Eminent domain was when the county would go in and acquire someone's property for a right of way for a highway, etc. and briefly explained the process. Flathead County did not get into that process at all.

Stevens asked Don Kaltschmidt what the problems between the business and residential zoning on Highway 93 South were generally.

Kaltschmidt said traffic was an issue, delivery trucks and paging.

Stevens and Kaltschmidt discussed alternatives besides buffer zoning such as landscaping, fences, etc.

Kaltschmidt said they did have alternatives in place but it would be better to have transitional zoning.

Stevens said concerning inconsistencies in zoning, the board would look at cleaning those up later in the process.

Luke said everyone knew why there were inconsistencies. He thought it was time to clean it up.

Stevens asked Slaybaugh if she had city water at her property.

Slaybaugh said no and explained who had city water and who was in the county.

Stevens and Slaybaugh discussed where the city had put water and how that affected zoning sometimes.

Stevens wanted the people who had brought up this issue to know the board was sensitive to these issues.

Larsen asked the public to keep involved in the process as it went along. The members of the board did not know individual's property as well as they did. When they started to look at maps and individual properties, they needed this type of feedback. He asked them not to just come to one meeting but to stay involved because it helped the board. He knew some people became frustrated because they came to one meeting and spoke and then

felt the board ignored them. It wasn't that the board was ignoring them; they needed them to engage as they went along.

A member of the public asked if there was a section on the Planning website which identified what different zoning designations were.

Grieve walked the audience through the website and how to find information. He then briefly explained the zoning regulations.

Hickey-AuClaire asked Grieve to display the options document for the gentleman who could not read it.

Grieve brought up the website on the visual aid and explained where the options document was located and said the document was available tonight at the workshop.

A member of the public said there was currently interim zoning in place. If a property owner wanted to do a project or change the zoning, what was the process?

Grieve said right now there was no amendment to interim zoning since it was a temporary zoning. The office was not accepting amendments to the interim zoning. The process to amend zoning would take almost as long as the interim zoning was allowed to be in place. At the end of interim zoning when permanent zoning was put in place there was the option to apply to change the zoning.

The audience member said the bottom line was there could be no change currently to the zoning.

Grieve and the member discussed if it was possible to change the zoning while interim zoning was in place.

Grieve could understand the difficulties of putting a project on hold for two years.

The audience and Grieve discussed the difficulties of being on hold.

Grieve said it was his understanding a part of the lawsuit was concerning representation of property owners in the donut area. This was an opportunity to talk to people who had been appointed by the commissioners concerning what the property

owners wanted to have done. There was paperwork and process which needed to be followed concerning the logistics of acquiring the donut back. Individuals could talk to the Planning Office to look at case by case situations, but there was a process and requirements which needed to be followed.

Hickey-AuClaire said on the board's end, the board had been very diligent on moving the process along as quickly as possible. They wanted to get the property owners representation and a plan. It was very important to the board so that was why they had held three workshops in the last month to listen to public input.

Calaway said the specifics of the property right now were important because there were a lot of non-conforming uses and trends the board would not be aware of because they could not examine every square inch of the former donut area. The public could help the board a lot by keeping involved.

Grieve explained where public comment was received and how it was distributed after it was received. They were public record, anyone who wanted to look at the comments needed to stop by the office.

A member of the public asked which board meetings were public.

Grieve said all meetings were public and anyone could attend. He explained meetings and workshops.

Norton and Grieve discussed when the board would be meeting to discuss the Lake and Lakeshore Regulations and which lakes were involved.

A member of the public asked Grieve to discuss the status of the Lake and Lakeshore Protection Committee at this time.

Grieve said he would be more than happy to discuss the status with her Monday through Friday, 8-5 pm, but discussing the status at this time would be getting away from the scope of what was advertised for this workshop. When the jurisdiction came back to the county, there were multiple sets of regulations which were involved. Lakeshore and Zoning regulations were different. He summarized the history of workshops to this point. Minutes, DVDs of the workshops, public comment, etc were available from the office. The board would decide what would come next in the

process and when they decided, it would be noticed on the website.

Larsen asked the public to send the board their written comments and suggestions. The board was not going to rush. They would answer all the questions they could.

Grieve asked the public to place dots where they lived because it was useful information.

**ADJOURNMENT** The workshop was adjourned at approximately 7:40 pm.

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Marie Hickey-AuClaire, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 1 / 14 / 15*

Flathead County  
Rural Whitefish Planning & Zoning Jurisdiction Transition  
Option Analysis Matrix<sup>1</sup>

<b>Option:</b>	1) Take no action, allow interim zoning to expire. <sup>2</sup>				2) During term of interim zoning, pursue planning process to update 1996 Whitefish City-County Master Plan. <sup>3</sup>			3) During term of interim zoning, pursue planning process to update 1996 Whitefish City County Master Plan using current city-adopted 2007 Whitefish Growth Policy as starting point. <sup>4</sup>		
<b>Sub-Option:</b>	1a) After expiration of interim zoning, repeal current county adopted 1996 Whitefish City-County Master Plan. Rely on Flathead County Growth Policy for land use decisions.	1a-i <sup>8</sup> ) Prior to expiration of interim zoning, repeal 1996 Whitefish City-County Master Plan then possibly amend Flathead County Growth Policy to add future land use map from 2007 Whitefish Growth Policy and revise text as needed. Replace interim zoning with county Part 2 zoning classifications based on Growth Policy.	1b) After expiration of interim zoning, only administer plans and zoning adopted by Flathead County Commissioners. <sup>5</sup>	1c) After expiration, allow only Part 1 zoning applications/amendments. Part 1 zoning does not require compliance with a neighborhood plan or growth policy, only description of a “development pattern” for each district. <sup>6</sup>	2a) Use 1996 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan. <sup>7</sup>	2b) Update 1996 plan, limit scope of update to future land use map and associated text within plan. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	2c) Update 1996 plan, do not limit scope and create updated plan with format and content that suits rural Whitefish for 20-year planning horizon. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3a) Review/adopt 2007 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan.	3b) Modify 2007 plan, limit scope of update to adopting future land use map and associated text and remove portions not workable and/or desirable to rural residents. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3c) Choose option 3a or 3b, then implement with new, special county Part 2 zoning classifications adopted to match permitted uses and bulk and dimensional requirements of “W” zoning in place at end of interlocal agreement.
<b>Pros:</b>	<ul style="list-style-type: none"><li>• Eliminates plan and planning processes that are typical source of allegations of errors in a litigation-prone situation.</li><li>• Reduces long-term demand on county planning resources.</li></ul>	<ul style="list-style-type: none"><li>• Allows use of Whitefish’s Future Land Use Map (upon which present zoning is based) without adopting entire 2007 Whitefish Growth Policy.</li><li>• Avoids more time consuming plan review processes in Options 2 of 3.</li></ul>	<ul style="list-style-type: none"><li>• Least demand on county planning resources.</li><li>• Those who had their property zoned by Whitefish with a “W” zoning classification and did not support the zoning would be unzoned or revert to county zoning.</li></ul>	<ul style="list-style-type: none"><li>• No updating or adoption of a broad community plan required prior to consideration of individual Part 1 districts.</li><li>• Landowner support would be required, 60% of landowners in an area 40 acres or more in size.</li></ul>	<ul style="list-style-type: none"><li>• Allows quickest adoption of a permanent replacement for current interim zoning using existing Part 2 zoning classifications.</li><li>• Uses entire 1996 plan jurisdiction.</li></ul>	<ul style="list-style-type: none"><li>• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.</li><li>• Likely achievable within two-year interim zoning lifespan.</li><li>• Addresses planning in entire 1996 plan jurisdiction.</li></ul>	<ul style="list-style-type: none"><li>• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.</li><li>• Addresses planning in entire 1996 plan jurisdiction.</li><li>• Optimal outcome is a plan that may serve rural Whitefish for many years.</li></ul>	<ul style="list-style-type: none"><li>• Minimizes demand on county planning resources since plan exists.</li><li>• Recognizes work done by community in 2007.</li><li>• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.</li></ul>	<ul style="list-style-type: none"><li>• Uses public process to identify and eliminate or revise controversial policies of 2007 plan.</li><li>• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.</li></ul>	<ul style="list-style-type: none"><li>• Provides for most consistent land use regulations with what existed under Whitefish’s jurisdiction.</li><li>• Most compatible with adjacent municipality’s urban growth and zoning, required by 76-2-203 M.C.A.</li></ul>
<b>Cons:</b>	<ul style="list-style-type: none"><li>• Eliminates detailed guidance for future land use decision making in rural Whitefish area.</li></ul>	<ul style="list-style-type: none"><li>• Permanent Part 2 zoning to replace interim zoning wouldn’t be based on a separate local plan.</li><li>• Flathead County Growth Policy contains broad goals and policies with opportunity for debate over meaning/applicability to very specific areas.</li></ul>	<ul style="list-style-type: none"><li>• Areas that were amended to a “W” zone from a county zone would go back to county zone, creating non-conforming uses.</li><li>• Those who supported the “W” zoning on their property and/or may have pursued zone changes, PUDs or permits under “W” zoning would now be unzoned.</li></ul>	<ul style="list-style-type: none"><li>• Significant administrative challenges associated with adding Part 1 zoning districts to existing Part 2 zoning regulations. Separate rules and standards, separate revenues and expenditures sources to track, separate planning and zoning commissions, etc., all for each district.</li></ul>	<ul style="list-style-type: none"><li>• 1996 plan is dated and doesn’t reflect many existing conditions and/or current projected trends.</li><li>• Many current zones and/or zoning amendments adopted under Whitefish’s jurisdiction may be “downzoned” to comply with this plan.<sup>7</sup></li></ul>	<ul style="list-style-type: none"><li>• Doesn’t allow for full inventory of existing characteristics, projected trends, available public services and infrastructure, etc. in 2014. Plan remains somewhat dated.</li><li>• Requires more county planning resources (staff and Planning Board) than some other options.</li></ul>	<ul style="list-style-type: none"><li>• Achieving scope of work will require substantial county planning resources (staff and Planning Board) and a public/political will to progress quickly through process.</li><li>• May still not be achievable within two-year interim zoning lifespan.</li></ul>	<ul style="list-style-type: none"><li>• Many policies of 2007 plan controversial to rural landowners.</li><li>• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.</li><li>• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.</li></ul>	<ul style="list-style-type: none"><li>• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.</li><li>• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.</li></ul>	<ul style="list-style-type: none"><li>• Adopting new “special” zones into text of Flathead County Zoning Regulations takes more time in addition to plan update and zoning map adoption.</li><li>• “Special” zones can introduce challenges with consistency and interpretation. Ex. Ashley Lake, North Fork, etc.</li></ul>
<b>Follow-up question or issue created by option:</b>	<ul style="list-style-type: none"><li>• Repeal of 1996 plan may not comply with Goals 46 and/or 49 of Growth Policy.</li></ul>	<ul style="list-style-type: none"><li>• Review Growth Policy to ensure proposed amendments will retain internal consistency of document.</li></ul>	<ul style="list-style-type: none"><li>• Significant concerns from parties that pursued zone changes or got permits with zoning in place.</li></ul>	<ul style="list-style-type: none"><li>• Research how to administer/enforce multiple Part 1 zoning districts.</li></ul>			<ul style="list-style-type: none"><li>• What happens at end of 2 years if project is not complete?</li></ul>	<ul style="list-style-type: none"><li>• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.</li></ul>	<ul style="list-style-type: none"><li>• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.</li></ul>	

<sup>1</sup>The purpose of this document is to inform rural Whitefish landowners, Flathead County decision makers and the general public about some of the options that were discussed at Planning Board public workshops on October 01 and October 15, 2014 and that are currently available for planning and zoning in the rural areas outside the city of Whitefish at the end of the term of the current interim zoning. This analysis was originally requested by the Flathead County Planning Board at the October 01, 2014 public workshop. It was prepared by planning staff and given to the Planning Board on October 08, 2014 and posted on the planning office’s website on October 09, 2014. At the October 15, 2014 public workshop, after public comment and board discussion, the board requested staff add Option 1a-i (see footnote #8 below). This additional option was added by planning staff on October 16, 2014 and the revised analysis was re-posted to the planning office’s website on October 16, 2014. This document is intended to serve as an informational starting point for discussion, public participation and additional research. Given the unprecedented nature of the rural Whitefish area jurisdiction transition, in order to create this document and present options, some assumptions had to be made.

For those unfamiliar with planning terminology, plans referenced herein (such as the county wide Flathead County Growth Policy, the 1996 Whitefish City County Master Plan and the 2007 Whitefish Growth Policy) are non-regulatory documents that generally outline a community vision for the future, inventory existing characteristics of a community, present projected growth trends, and establish goals for how growth should occur within the plan’s jurisdiction. Policies regarding such things as location of growth, public services and infrastructure to serve growth, and environmental impacts of growth are typically set forth in a plan to guide decision makers over time and help achieve the goals. Communities are not required to adopt plans, but if a community chooses to adopt plans, they must be made and adopted according to state laws. These laws are found in 76-1-601 et. seq., M.C.A. Since plans are non-regulatory, they are implemented using regulatory methods (regulatory means those for which an enforcement mechanism is authorized if violated, such as a misdemeanor) such as subdivision regulations and zoning regulations. Zoning is regulatory, and Part 2 zoning must be made in accordance with, or implement, the stated goals and policies of a plan. See footnote 6 below for an important explanation of differences between Part 1 and Part 2 zoning in rural areas.

<sup>2</sup>The current interim zoning was adopted September 09, 2014 pursuant to Resolution #2394 and will expire at the end of one year. The Commissioners may extend the interim zoning for up to one additional year. The interim zoning was adopted to most closely replicate the permitted land uses and bulk and dimensional requirements of the “W” zoning that was adopted by the Whitefish City Council outside of city limits prior to and during the period of the Interlocal Agreement.

<sup>3</sup>The 1996 Whitefish City County Master Plan was adopted jointly by the Flathead County Commissioners and Whitefish City Council on February 06, 1996 and February 20, 1996 (respectively). This is the local plan for the rural Whitefish area referenced in Part 4 of Chapter 11 of the Flathead County Growth Policy. The 1996 plan boundary extends approximately 4½ miles outside Whitefish city limits as they existed at that time.

<sup>4</sup>The 2007 Whitefish Growth Policy was adopted by the Whitefish City Council in November 2007 and at that time applied to areas within city limits and within the interlocal agreement boundary. The interlocal agreement boundary was *approximately* 2 miles from Whitefish city limits as they existed in 2005. This 2007 Whitefish Growth Policy was not adopted by the Flathead County Commissioners for areas outside Whitefish city limits.

<sup>5</sup>Under this option/scenario, the 1996 Whitefish City County Master Plan and any county zoning adopted by the Flathead County Commissioners in the past would continue to exist. Zoning in areas that had been zoned with a “W” zone by the Whitefish City Council would cease to exist. “W” zoning within one mile of city limits that was passed by the Whitefish City Council prior to 2005 pursuant to 76-2-310 M.C.A. would not exist. County zones that were adopted by the Flathead County Commissioners in the past that have been amended by the Whitefish City Council to a different county zone or to a “W” zone would revert to the last zoning approved by the Commissioners.

<sup>6</sup>Under Montana law, there are two basic types of zoning that can be adopted in rural areas. Part 1 zoning is referred to as “citizen initiated” zoning. When 60% of the landowners in an area of 40 acres or more petition the county for zoning, the Commissioners may adopt it. Part 1 zoning districts each have a separate “Planning and Zoning Commission,” each would have separate regulatory standards, each have a separate levy within the district to pay for administration and enforcement of the zoning district, and are adopted to implement a separate “development pattern” identified for each district. Part 1 zoning is not specifically required to be made in accordance with a Growth Policy. See 76-2-101 et. seq., M.C.A. regarding details of “citizen initiated” Part 1 zoning. Currently, Flathead County only has one Part 1 zoning district in the Egan Slough area and because it has unique and separate regulatory standards and administrative requirements, it is not a part of the Flathead County Zoning Regulations. Part 2 zoning is the second type of zoning under Montana law and it is referred to as “county initiated” zoning. Part 2 zoning may be initiated by the Commissioners for purposes of “promoting the public health, safety, morals, and general welfare” of a jurisdictional area and must be made in accordance with a growth policy or plan. The current Flathead County Zoning Regulations are adopted under Part 2 zoning. See 76-2-201 et. seq., M.C.A. regarding details of “county initiated” Part 2 zoning.

<sup>7</sup>Pursuant to the criteria for adopting Part 2 zoning found in 76-2-203 M.C.A. and Section 2.08.040 of the Flathead County Zoning Regulations, zoning regulations must be made in accordance with the Growth Policy. The 1996 Whitefish City County Master Plan has been adopted as an element of the Flathead County Growth Policy. Therefore, any permanent zoning would have to comply with the 1996 plan and according to the Introduction, the plan is composed of two major components, the text and the map, that must be weighed equally (page 3). Since the 1996 plan was not updated by the county while the interlocal agreement was in place, some of the current zoning that was adopted by Whitefish in accordance with the 2007 Whitefish Growth Policy would not comply and could not be adopted under the current county 1996 plan.

<sup>8</sup>Option 1a-i added after Planning Board discussion at October 16, 2014 public workshop.

**Flathead County**  
**Whitefish & Lost Coon Lake and Lakeshore Jurisdiction Transition**  
**Option Analysis Matrix<sup>1</sup>**

<b>Option:</b>	1) Amend the <i>Flathead County Lake and Lakeshore Protection Regulations</i> <sup>2</sup> to include Whitefish and Lost Coon Lakes.	2) Option 1, then review, revise and update the <i>Flathead County Lake and Lakeshore Protection Regulations</i> <sup>2</sup> in next fiscal year.	3) Continue using Flathead County's <i>Whitefish Area Lake and Lakeshore Protection Regulations</i> <sup>5</sup> that were used prior to interlocal agreement.	4) Adopt Whitefish's <i>Whitefish Area Lake and Lakeshore Protection Regulations</i> <sup>6</sup> that Whitefish used during interlocal agreement.	5) Work with public and Whitefish to create new Whitefish & Lost Coon lakeshore regulations agreeable to both governing bodies, adopt separately.	6) Discuss with City of Whitefish a mutually agreeable arrangement to give city lakeshore jurisdiction for Whitefish and Lost Coon Lakes <sup>7</sup> .
<b>Pros:</b>	<ul style="list-style-type: none"> <li>• Efficient administration and enforcement for Flathead County.</li> <li>• Consistent with ~57 other lakes regulated in rural Flathead County<sup>3</sup>.</li> <li>• Allows resources to be focused on interim zoning replacement.</li> </ul>	<ul style="list-style-type: none"> <li>• Allows county to adopt best provisions for rural jurisdiction of multiple regulations and apply to all ~59 lakes.</li> <li>• End result is one updated set of regulations for all rural Flathead County.</li> </ul>	<ul style="list-style-type: none"> <li>• This is what Flathead County is doing now, no changes needed.</li> <li>• Maintains many unique provisions found in current City of Whitefish regulations since those regulations originated from this document.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides for consistency across jurisdictions in an existing document, but only if adopted by county as written.</li> <li>• These are the most recently updated regulations unique to Whitefish and Lost Coon Lakes.</li> </ul>	<ul style="list-style-type: none"> <li>• Governing bodies can create one set of regulations with which they are both comfortable.</li> <li>• Most consistent option while maintaining separate jurisdictions.</li> <li>• If successful, promotes cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• Only option for 100% consistent regulations across Whitefish and Lost Coon Lakes because one jurisdiction is interpreting, administering, enforcing and amending.</li> <li>• Consumes least county resources.</li> </ul>
<b>Cons:</b>	<ul style="list-style-type: none"> <li>• Least consistent option with current City of Whitefish regulations.</li> <li>• Does not recognize unique history and cultural identity of Whitefish Lake.</li> <li>• Last updated 12 years ago. However, see Option #2.</li> </ul>	<ul style="list-style-type: none"> <li>• Requires county resources allocated to review and update at same time as county is working to replace interim zoning (could use consultant for lakeshore update).</li> <li>• Increases demand on Planning Board time over next 1-2 years.</li> </ul>	<ul style="list-style-type: none"> <li>• Not consistent with current City of Whitefish regulations used inside city limits.</li> <li>• Long term costs for two sets of lakeshore regulations.</li> <li>• Some provisions hard to enforce.</li> <li>• Needs update to jurisdictional references.</li> </ul>	<ul style="list-style-type: none"> <li>• Some 2009 revisions hard to enforce in rural area.</li> <li>• Any edits by county, or any future amendments not adopted by both jurisdictions result in inconsistent regulations.</li> <li>• Reviewing &amp; revising consumes county resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Extremely time and resource consumptive for both jurisdictions.</li> <li>• No guarantee efforts will be successful. History shows very different political wills.</li> <li>• Future amendments by one governing body may not be adopted by other.</li> </ul>	<ul style="list-style-type: none"> <li>• Current political climate creates challenges with establishing cooperative agreements.</li> <li>• Discussions may simply not yield a mutually agreeable scenario, resulting in wasted time.</li> </ul>
<b>Follow-up question or issue created by option:</b>	• Impact of Whitefish's annexation of lake bottom <sup>4</sup> ?	• Impact of Whitefish's annexation of lake bottom <sup>4</sup> ?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Representation for rural lakefront landowners.

<sup>1</sup>The purpose of this document is to inform Flathead County decision makers and the public about some options that are currently available for regulating Whitefish and Lost Coon Lakes, per 75-7-207 M.C.A. The document is intended to serve as an informational starting point for discussion and public participation.

<sup>2</sup>Adopted by the Flathead County Board of Commissioners April 13, 1982. Covered all lakes in Flathead County until separate regulations were created for Whitefish and Lost Coon Lakes in 1990 (see footnote #4 below). Most recently revised January 24, 2002. This document can be found on the Flathead County Planning and Zoning Office website at [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php) (click on the folder labelled “Lake and Lakeshore Protection Regulations”).

<sup>3</sup>Per 75-7-203 M.C.A., the *Flathead County Lake and Lakeshore Protection Regulations* govern all lakes over 20 acres in size for at least 6 months in a year, presently including Blanchard Lake but excluding Whitefish and Lost Coon Lakes. According to Flathead County GIS, this applies to approximately 57 lakes in rural Flathead County.

<sup>4</sup>The City of Whitefish has annexed Whitefish Lake to the low water mark. Dock permits issued for rural properties may therefore be doing work inside city limits. Mayor John Muhlfeld raised this jurisdictional concern in a letter to the Commissioners on September 04, 2014.

<sup>5</sup>Adopted jointly by the Flathead County Commissioners on January 03, 1990 (Resolution #769) and the City of Whitefish On January 01, 1990 (Ordinance #89-12) as a separate set of lakeshore regulations governing Whitefish and Lost Coon Lakes. Administered by Flathead County for rural properties on Whitefish and Lost Coon Lakes until February 01, 2005 (effective date of Interlocal Agreement) and then again starting on July 15, 2014 (effective date of Montana Supreme Court ruling terminating Interlocal Agreement). This document can be found on the Flathead County Planning and Zoning Office website at [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php) (click on the folder labelled “Lake and Lakeshore Protection Regulations”).

<sup>6</sup>After February 01, 2005 (effective date of Interlocal Agreement), the City of Whitefish continued to use the regulations that had been adopted jointly with Flathead County. However, subsequent amendments were not approved by Flathead County since the jurisdiction was solely Whitefish’s. The regulations were amended by Whitefish to include Blanchard Lake since that lake was inside the Interlocal Agreement area. In 2009, Whitefish adopted a significant revision to the regulations (Ordinance 09-08). These regulations are referred to as the *Whitefish Area Lake and Lakeshore Protection Regulations*. A link to this document can be found on the City of Whitefish website at <http://www.cityofwhitefish.org/planning-and-building/floodplain-development.php>.

<sup>7</sup>Per 75-7-214 M.C.A., governing bodies of lakes that are in two different jurisdictions are “empowered and encouraged,” but not required, to enter into agreements to establish compatible criteria.